

**United States Bankruptcy Court
Central District of California
Los Angeles
Ernest Robles, Presiding
Courtroom 1568 Calendar**

Wednesday, May 10, 2023

Hearing Room 1568

10:00 AM

2:22-16063 Heidi Chuhan Tseng

Chapter 7

#1.00 Hearing

RE: [27] Chapter 7 Trustee's Motion to Authorize Chapter 7 Trustee to Vote the Estates 100% Membership Interest Under 11 U.S.C. § 363(b)(1) In HYCB, LLC and HYCB, LLC's Sole Interest in HYCB A, LLC; to Adopt Resolution Removing the Debtor and Cinda Long as the Managers of HYCB and Electing Chapter 7 Trustee as HYCB, LLC's Sole Member/Manager

Docket 27

***** VACATED *** REASON: RESCHEDULED 4-26-23 AT 10:00 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heidi Chuhan Tseng

Represented By
Brian J Soo-Hoo

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

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10:00 AM

2:22-16063 Heidi Chuhan Tseng

Chapter 7

#2.00 Hearing
RE: [32] Chapter 7 Trustee's Motion Objecting to Debtor's Claim of Homestead
Exemption

Docket 32

***** VACATED *** REASON: RESCHEDULED 4-26-23 AT 10:00 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Heidi Chuhan Tseng

Represented By
Brian J Soo-Hoo

Trustee(s):

Sam S Leslie (TR)

Represented By
Elissa Miller

**United States Bankruptcy Court
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2:23-11519 Wesley Dunning

Chapter 7

#3.00 Status HearingRE: [1] Chapter 7 Involuntary Petition Against an Individual. Jose Rendon, Angie Cachu . (KC2) Additional attachment(s) added on 3/16/2023 (KC2).

Docket 1

Tentative Ruling:

5/9/2023

Note: Parties may appear at the hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.

The involuntary petition is **DISMISSED** for the reasons set forth below.

Pleadings Filed and Reviewed:

- 1) Chapter 7 Involuntary Petition Against an Individual [Doc. No. 1]
- 2) Summons and Notice of Status Conference in an Involuntary Bankruptcy Case [Doc. No. 6]
 - a) Certificate of Service [Doc. No. 8]

The Petitioning Creditors have failed to file a proof of service establishing that the Summons, Notice of Status Conference, and Involuntary Petition were served upon the Alleged Debtor. The Summons issued to the Petitioning Creditors clearly informs the Petitioning Creditors of the obligation to serve the Summons, Notice of Status Conference, and Involuntary Petition upon the Alleged Debtor. The Summons further advises the Petitioning Creditors that failure to properly effectuate service may result in dismissal of the involuntary petition.

Local Bankruptcy Rule 1010-1 provides in relevant part: "The court may dismiss an involuntary petition without further notice and hearing if the petitioner fails to ... (c) serve the summons and petition within the time allowed by FRBP 7004; (d) file a proof of service of the summons and petition with the court; or (e) appear at the status conference set by the court."

Based upon the foregoing, the involuntary petition is **DISMISSED**. The Court

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CONT... **Wesley Dunning**
will prepare and enter an order dismissing the case.

Chapter 7

Party Information

Debtor(s):

Wesley Dunning

Pro Se

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Hearing Room 1568

10:00 AM

2:20-19727 Titus Emil Iovita

Chapter 11

#4.00 Hearing re [146] Debtor's Disclosure Statement

Docket 0

Tentative Ruling:

5/9/2023

Note: Parties may appear at the hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.

For the reasons set forth below, the Court approves the Disclosure Statement as containing adequate information.

Pleadings Filed and Reviewed:

- 1) Debtor's Disclosure Statement [Doc. No. 146] (the "Disclosure Statement")
- 2) Debtor's Chapter 11 Plan of Reorganization [Doc. No. 147] (the "Plan")
- 3) Notice of Hearing on Adequacy of Disclosure Statement [Doc. No. 148]
- 4) No opposition to the Disclosure Statement or the Plan is on file

I. Facts and Summary of Pleadings

On October 28, 2020 (the "Petition Date"), Titus Emil Iovita (the "Debtor") filed a voluntary Chapter 11 petition. The Debtor's principal residence is located at 14919 S. Normandie Ave, Apt. 8, Gardena, California 90247 (the "Property"). The Debtor owns an additional property located at 18604 Newman Ave, Riverside, California 92508 (the "Riverside Property").

On March 27, 2023, the Debtor filed the Plan and the Disclosure Statement. The following is a summary of the classes outlined in the Disclosure Statement:

- Class 1(a) – Wells Fargo Bank, N.A. ("Wells Fargo") – holds a secured claim on the Property in the amount of \$156,935.00. The Debtor will continue making regular contractual payments until the maturity of the loan in the amount of \$695.46 per month. The Debtor will continue paying insurance and

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property tax payments on the Property.

- Class 1(b) – Pingora Loan Servicing, LLC – holds a secured claim, first priority, on the Riverside Property in the amount of \$199,522.37. The Debtor will continue making regular contractual payments until the maturity of the loan in the amount of \$1,011.00 per month.
- Class 1(c) – Siboney Monge (“Monge”) – holds a secured claim, second priority, on the Riverside Property in the amount of \$212,500.00. Class 1(c)’s claim will be paid pursuant to the settlement agreement executed by the Debtor and Monge (the “Settlement Agreement”), which is attached as Exhibit 7 to the Disclosure Statement. Per the Settlement Agreement, \$75,000.00 shall be paid on the Effective Date of the Plan and the remaining balance of \$137,500.00 shall be paid over 72 months, with 5% interest accruing per year, in the amount of \$2,214.43 per month.
- Class 2(a) – general unsecured claims – totals approximately \$5,928.00. Under the Plan, Class 2(a) will be paid in full on the Effective Date of the Plan.

The Debtor intends to fund the Plan from his main sources of monthly income: (1) \$3,200.00 from his work at Greystar Management Services (previously known as Oakwood Properties); (2) \$1,180.00 from his work at Progressive Protective Services, (3) \$2,350.00 from his lease with Christina Clark for the Riverside Property; and (4) \$1,852.00 from pension and social security income.

No opposition to the Disclosure Statement or the Plan is on file.

II. Findings of Fact and Conclusions of Law

A. The Disclosure Statement Contains Adequate Information

Section 1125 provides that a disclosure statement must contain "information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, ... that would enable ... a hypothetical investor of the relevant class to make an informed judgment about the plan." In determining whether a disclosure statement provides adequate information, "the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information." § 1125.

Courts interpreting § 1125(a) have explained that the "primary purpose of a disclosure statement is to give the creditors the information they need to decide whether to accept the plan." *In re Monnier Bros.*, 755 F.2d 1336, 1342 (8th Cir.

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1985). "According to the legislative history, the parameters of what constitutes adequate information are intended to be flexible." *In re Diversified Investors Fund XVII*, 91 B.R. 559, 560 (Bankr. C.D. Cal. 1988). As explained by one court:

Relevant factors for evaluating the adequacy of a disclosure statement may include: (1) the events which led to the filing of a bankruptcy petition; (2) a description of the available assets and their value; (3) the anticipated future of the company; (4) the source of information stated in the disclosure statement; (5) a disclaimer; (6) the present condition of the debtor while in Chapter 11; (7) the scheduled claims; (8) the estimated return to creditors under a Chapter 7 liquidation; (9) the accounting method utilized to produce financial information and the name of the accountants responsible for such information; (10) the future management of the debtor; (11) the Chapter 11 plan or a summary thereof; (12) the estimated administrative expenses, including attorneys' and accountants' fees; (13) the collectability of accounts receivable; (14) financial information, data, valuations or projections relevant to the creditors' decision to accept or reject the Chapter 11 plan; (15) information relevant to the risks posed to creditors under the plan; (16) the actual or projected realizable value from recovery of preferential or otherwise voidable transfers; (17) litigation likely to arise in a nonbankruptcy context; (18) tax attributes of the debtor; and (19) the relationship of the debtor with affiliates.

In re Metrocraft Pub. Services, Inc., 39 B.R. 567, 568 (Bankr. Ga. 1984). However, "[d]isclosure of all factors is not necessary in every case." *Id.*

The Court finds that the Disclosure Statement contains information adequate to enable creditors to make an informed decision on the Plan. Among other things, the Disclosure Statement (1) describes the Debtor's assets and the values of the assets; (2) describes the sources of money earmarked to pay the Debtor's creditors; (3) estimates the estate's liability for administrative expenses and professional fees; (4) contains information regarding who may object to confirmation of the Plan; and (5) outlines the estimated return to creditors under a Chapter 7 liquidation.

The following dates shall apply with respect to confirmation of the Plan:

- 1) A hearing on confirmation of the Plan (the "Confirmation Hearing") shall take place on **July 19, 2023 at 10:00 a.m.****

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- 2) Pursuant to Bankruptcy Rule 3017, the Debtor shall serve the Disclosure Statement, the Plan, notice of the confirmation hearing, and a ballot conforming to Official Form No. 14 (collectively, the "Solicitation Package") upon interested parties, such that interested parties actually receive the Solicitation Package by no later than **May 19, 2023**.
- 3) The record date for purposes of determining the claimholders that are entitled to vote on the Plan shall be **May 12, 2023**.
- 4) **June 12, 2023** is fixed as the last day for creditors and equity security holders to return to the Debtor's counsel ballots containing written acceptances or rejections of the Plan, which ballots must be actually received by the Debtor's counsel by 5:00 p.m. on such date.
- 5) **June 28, 2023** is fixed as the last day on which the Debtor must file and serve a motion for an order confirming the Plan (the "Confirmation Motion"), including declarations setting forth a tally of the ballots cast with respect to the Plan ("Ballots"), and attaching thereto the Ballots, and setting forth evidence that the Debtor has complied with all the requirements for the confirmation of the Plan.
- 6) **July 5, 2023** (the "Objection Date"), is fixed as the last day for filing and serving written objections to confirmation of the Plan, as provided in Rule 3020(b)(1) of the Federal Rules of Bankruptcy Procedure.
- 7) **July 12, 2023** is fixed as the last day on which the Debtor may file and serve its reply to any opposition to the Confirmation Motion (the "Reply").
- 8) Parties may appear at the Confirmation Hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.

B. The Debtor Shall Appear to Provide an Update Regarding Service of the Notice Advising Creditors of Their Opportunity to Intervene in the Dischargeability Action to Prosecute the § 727 Claims

The Debtor has executed a Settlement Agreement resolving Adv. No. 2:21-ap-01022-ER and Adv. No. 2:21-ap-01024-ER (collectively, the "Adversary Proceedings"), which have been consolidated. Because Adv. No. 2:21-ap-01024-ER (the "Dischargeability Action") asserts claims under § 727, the United States Trustee (the "UST") and creditors have the opportunity to seek authorization to intervene in the Dischargeability Action for the purpose of prosecuting the § 727 claims. *See*

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Bankruptcy Rule 7041.

On April 7, 2023, the Court issued an order in the Dischargeability Action requiring the Debtor to provide the Court additional information regarding service of the notice advising creditors of their opportunity to intervene in the Dischargeability Action (the "Notice"). *See* Doc. No. 79, Adv. No. 2:21-ap-01024-ER. The Court explained that it was unclear whether the Notice had been served upon creditors, because the Proof of Service attached to the Notice did not indicate that all of the Debtor's creditors had been served. The Court ordered the Debtor to either (1) serve the Notice upon creditors or (2) file an updated Proof of Service evidencing that creditors had in fact been properly served. The Debtor was required to accomplish one of these actions by no later than April 14, 2023. As of the date of the issuance of this tentative ruling, the Debtor has not supplied the additional information ordered by the Court.

The Debtor's failure to provide this information has delayed resolution of the Adversary Proceedings. The Debtor shall appear to advise the Court as to the status of service of the Notice upon creditors.

III. Conclusion

Based upon the foregoing, the Court approves the Disclosure Statement as containing adequate information. The Court will prepare and enter an appropriate order.

Party Information

Debtor(s):

Titus Emil Iovita

Represented By
Vahe Khojayan

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2:21-12812 Corporate Colocation Inc

Chapter 11

#5.00 Hearing re [464] Objection to Claim #5 by Claimant A-Lign Compliance and Security Inc. in the amount of \$ \$4550.00 .

Docket 0

Tentative Ruling:

5/9/2023

Note: Parties may appear at the hearing either in-person or by telephone. The use of face masks in the courtroom is optional. Parties electing to appear by telephone should contact CourtCall at 888-882-6878 no later than one hour before the hearing.

For the reasons set forth below, the Claim Objection is **SUSTAINED**, and the Proof of Claim filed by A-Lign is **DISALLOWED** in its entirety.

Pleadings Filed and Reviewed:

- 1) Debtor's Objection to A-Lign Compliance and Security, Inc.'s Proof of Claim No. 5-1 [Doc. No. 464] (the "Claim Objection")
 - a) Notice of Objection to Claim [Doc. No. 465]
 - b) Order Rescheduling Hearing on Debtor's Objection to Proof of Claim No. 5-1 from 11:00 a.m. to 10:00 a.m. on May 10, 2023 [Doc. No. 480]
- 2) No opposition to the Claim Objection is on file

I. Facts and Summary of Pleadings

On April 7, 2021 (the "Petition Date"), Corporate Colocation Inc. (the "Debtor") filed a voluntary Chapter 11 petition. On December 19, 2022, the Court confirmed the Debtor's Chapter 11 Plan. *See* Doc. No. 396.

A-Lign Compliance and Security Inc. ("A-Lign") asserts a general unsecured claim in the amount of \$4,550.00 (the "Claim"). The Claim is based upon data center audit services that A-Lign alleges it provided to the Debtor.

The Debtor objects to the Claim on the ground that A-Lign never provided any data center audit services. The Debtor's principal testifies that "A-Lign never even visited Debtor's facility, no audit was performed, and no audit report was supplied to

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Debtor." Victor Goodman Decl. at ¶ 8.

A-Lign has not filed an opposition to the Claim Objection.

II. Findings of Fact and Conclusions of Law

Under Bankruptcy Rule 3001(f), a proof of claim executed and filed in accordance with the Bankruptcy Rules constitutes *prima facie* evidence of the validity and amount of the claim. To overcome the presumption of validity created by a timely-filed proof of claim, an objecting party must do one of the following: (1) object based on legal grounds and provide a memorandum of points and authorities setting forth the legal basis for the objection; or (2) object based on a factual ground and provide sufficient evidence (usually in the form of declarations under penalty of perjury) to create triable issues of fact. *Durkin v. Benedor Corp. (In re G.I. Indus., Inc.)*, 204 F.3d 1276, 1280 (9th Cir. BAP 2000); *United States v. Offord Finance, Inc. (In re Medina)*, 205 B.R. 216, 222 (9th Cir. BAP 1996); *Hemingway Transport, Inc. v. Kahn (In re Hemingway Transport, Inc.)*, 993 F.2d 915, 925 (1st Cir. 1993). Upon objection, a proof of claim provides "some evidence as to its validity and amount" and is "strong enough to carry over a mere formal objection without more." *Lundell v. Anchor Constr. Spec., Inc.*, 223 F.3d 1035, 1039 (9th Cir. 2000) (citing *Wright v. Holm (In re Holm)*, 931 F.2d 620, 623 (9th Cir. 1991)). An objecting party bears the burden and must "show facts tending to defeat the claim by probative force equal to that of the allegations of the proofs of claim themselves." *Holm*, 931 F.2d at 623. When the objector has shown enough evidence to negate one or more facts in the proof of claim, the burden shifts back to the claimant to prove the validity of the claim by a preponderance of evidence. *See Lundell*, 223 F.3d at 1039 (citation omitted).

Section 502 requires the Court to disallow a claim that "is unenforceable against the debtor and the property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured." Based upon the uncontroverted testimony of Victor Goodman, the Court finds that A-Lign never provided any data center audit services to the Debtor. Therefore, A-Lign's Claim is unenforceable against the Debtor. The Claim Objection is **SUSTAINED** and the Claim is **DISALLOWED** in its entirety.

Within seven days of the hearing, the Debtor shall submit a proposed order incorporating this tentative ruling by reference.

No appearance is required if submitting on the court's tentative ruling. If you intend to submit on the tentative ruling, please contact Evan Hacker or Daniel Koontz

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at 213-894-1522. **If you intend to contest the tentative ruling and appear, please first contact opposing counsel to inform them of your intention to do so.** Should an opposing party file a late opposition or appear at the hearing, the court will determine whether further hearing is required. If you wish to make a telephonic appearance, contact Court Call at 888-882-6878, no later than one hour before the hearing.

Party Information

Debtor(s):

Corporate Colocation Inc

Represented By
Robert M Yaspan

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2:20-19727 Titus Emil Iovita

Chapter 11

#100.00 Hearing re [146] Debtor's Disclosure Statement

Docket 0

***** VACATED *** REASON: WILL BE HEARD AT 10:00 AM**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Titus Emil Iovita

Represented By
Vahe Khojayan

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2:21-12812 Corporate Colocation Inc

Chapter 11

#101.00 Hearing re [464] Objection to Claim #5 by Claimant A-Lign Compliance and Security Inc. in the amount of \$ \$4550.00 .

Docket 0

***** VACATED *** REASON: WILL BE HEARD AT 10:00 AM TODAY**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Corporate Colocation Inc

Represented By
Robert M Yaspan